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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,002	01/16/2004	Edward J. Schmitt	00552-P0052A	7909
24126	7590	01/13/2006		
ST. ONGE STEWARD JOHNSTON & REENS, LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619			EXAMINER JOHNSON, STEPHEN	
			ART UNIT	PAPER NUMBER
			3641	
DATE MAILED: 01/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/759,002	Applicant(s) SCHMITT, EDWARD J.	
	Examiner Stephen M. Johnson	Art Unit 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-3 and 5-8 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's election without traverse of a funnel as illustrated in figs. 1-3 in the replies filed on 1/6/2005 and 7/18/2005 is acknowledged.

Claims 1-3 and 5-8 read on the elected invention and an action on these claims follows.

2. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 3-4, it is not understood as to what portion of the container 12 is considered to be "shaped to sit on a horizontal surface"?

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Manem et al..

Manem et al. disclose a funnel comprising :

- | | |
|--------------------------------------------------------|-------------------------------|
| a) a container including bottom and side portions; | 20, 21, 22, 24 |
| b) a funnel member including funnel and spout portion; | 11, portion of 11 adjacent 12 |
| c) a frusto-conical shape; | see figs. 2a, 2b |
| d) a handle portion; and | 26 |
| e) a plastic material funnel. | col. 2, lines 1-3 |

5. Applicant's arguments are addressed as follows. (1) It is argued that Manem et al. do not contain an area for receiving powder or shots. In response, the area bordered by walls 22, 23, and

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24 of Manem et al. is considered to be the area for receiving powder or shots. Just because the reference does not explicitly state this does not mean that this area could not be used for receiving powder or shots as well as any number of different materials not explicitly stated by Manem et al.. Col. 2, lines 66-70, of Manem et al. explicitly mentions some other materials that might be held in the container or vessel 10 but this list is not intended to be inclusive of all possible materials. (2) It is argued that the claim limitation “an inner diameter shaped to receive a tip portion of a cartridge case therein for loading or reloading the powder or shots through the spout portion” is not met by Manem et al.. In response, note that all that applicant is claiming is a particular diameter shape and that such shape be able to receive a tip portion of a cartridge case. Since the diameter of Manem et al. is sized to pour spare fuel into a tank and since cartridge cases and their associated tips vary in size from quite small for small arms cartridges to quite large for artillery firearms, this claim limitation is inherently met by Manem et al.. Further, since the design of the Manem et al. device is to pour material from the vessel 10 to another contain (e.g. fuel tank), it seems reasonable to expect that other types of materials could inherently be poured into other types of structures. (3) It is argued that the powder or shot received within the container must be able to flow out of the funnel and into the cartridge case. This argument has been addressed in portions (2) above. (4) It is argued that the powder or shot must flow out of the funnel when inclined at a predetermined angle or degree. In response, any material located inside vessel 10 must inherently flow out of the vessel via the funnel when appropriately inclined. This is the intended design and usage of the vessel and funnel arrangement of Manem et al. (col. 2, lines 35-61).

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6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Manem et al. in view of Discho or Reynolds.

Manem et al. apply as previously recited. However, undisclosed is a funnel container made of metal. Discho (page 1, lines 43-47) and Reynolds (page 1, lines 39-52) each teach a funnel container made of sheet metal. Applicant is substituting one material type of funnel container for another in an analogous art setting as explicitly encouraged by the primary reference (see Manem et al. (col. 2, lines 1-3)). It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Discho or Reynolds to the Manem et al. container funnel and have a container funnel made of a different material type.

8. It is argued that Discho and/or Reynolds do not teach “an area for receiving powder or shot”; “an inner diameter shaped to receive a tip portion of a cartridge case therein for loading or reloading the powder or shot”; and “powder or shot ... to flow out of the funnel and into the cartridge case for loading or reloading ... when the funnel is inclined to a predetermined degree”. In response, Manem et al. and neither Discho or Reynolds is being relied upon to meet these claim limitations. Discho and Reynolds are only being relied upon for their teachings with regard to a container funnel made of sheet metal.

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9. Claims 1-3, 5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Knapton.

Knapton discloses a funnel comprising :

- a) a container including bottom and side portions; 10, 14, 16
- b) a funnel member including funnel and spout portion; 32, 19
- c) a frusto-conical shape; 32, 19
- d) a handle portion; and 31
- e) a plastic material funnel. col. 2, line 66 – col. 3, line 6

10. Applicant's arguments are addressed as follows. (1) It is argued that Knapton does not contain an area for receiving powder or shots. In response, the areas 40, 41, and 42 are considered to be the area for receiving powder or shots. Just because the reference does not explicitly state this does not mean that this area could not be used for receiving powder or shots as well as any number of different materials not explicitly stated by Knapton. Col. 1, lines 18-22, explicitly mention some other materials that might be held in the container or vessel of Knapton but this list is not intended to be inclusive of all possible materials. (2) It is argued that the claim limitation "an inner diameter shaped to receive a tip portion of a cartridge case therein for loading or reloading the powder or shots through the spout portion" is not met by Knapton. In response, note that all that applicant is claiming is a particular diameter shape and that such shape be able to receive a tip portion of a cartridge case. Since the diameter of Knapton is sized to pour into a containment vessel within a washing machine and since cartridge cases and their associated tips vary in size from quite small for small arms cartridges to quite large for artillery firearms, this claim limitation is inherently met by Knapton. Further, since the design of the

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Knapton device is to pour material from the containers 40, 41, 42 to another contain (e.g. washing machine), it seems reasonable to expect that other types of materials could inherently be poured into other types of structures. (3) It is argued that the powder or shot received within the container must be able to flow out of the funnel and into the cartridge case. This argument has been addressed in portions (2) above. (4) It is argued that the powder or shot must flow out of the funnel when inclined at a predetermined angle or degree. In response, any material located inside containers 40, 41, 42 must inherently flow out of the vessel via the funnel when appropriately inclined. This is the intended design and usage of the vessel and funnel arrangement of Knapton (col. 1, line 8 to col. 2, line 26).

11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Manem et al. in view of Hellebusch.

Manem et al. apply as previously recited. However, undisclosed are handles located on opposite sides of the pourable container. Hellebusch teaches handles located on opposite sides of the pourable container 20. Applicant is selecting a means to aid in pouring a pourable container and putting it to use as is already taught by Hellebush (col. 2, lines 22-26). It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Hellebusch to the Manem et al. pourable container and have a pourable container with handles to aid in pouring.

12. Claims 1-2 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Raboin et al..

Raboin et al. disclose a funnel comprising :

a) a container including bottom and side portions; 20, 22, 24, 26, 16

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- b) a funnel member including funnel and spout portion; 88
- c) a frusto-conical shape; 88
- d) a handle portion; and 120, 122
- e) a plastic material funnel. col. 3, lines 4-6

13. Applicant's arguments are addressed as follows. (1) It is argued that Raboin et al. do not contain an area for receiving powder or shots. In response, the hollow area 28 (see fig. 1) is considered to be the area for receiving powder or shots. Just because the reference does not explicitly state this does not mean that this area could not be used for receiving powder or shots as well as any number of different materials not explicitly stated by Raboin et al.. Col. 1, lines 5-10 of Raboin et al. explicitly mentions some other materials that might be held in the hollow area 28 but this list is not intended to be inclusive of all possible materials. (2) It is argued that the claim limitation "an inner diameter shaped to receive a tip portion of a cartridge case therein for loading or reloading the powder or shots through the spout portion" is not met by Manem et al.. In response, note that all that applicant is claiming is a particular diameter shape and that such shape be able to receive a tip portion of a cartridge case. Since the diameter of Raboin et al. is sized to pour spare oil into a tank and since cartridge cases and their associated tips vary in size from quite small for small arms cartridges to quite large for artillery firearms, this claim limitation is inherently met by Raboin et al.. Further, since the design of the Raboin et al. device is to pour material from the vessel 10 to another contain (e.g. storage tank), it seems reasonable to expect that other types of materials could inherently be poured into other types of structures. (3) It is argued that the powder or shot received within the container must be able to flow out of the funnel and into the cartridge case. This argument has been addressed in portions (2) above.

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(4) It is argued that the powder or shot must flow out of the funnel when inclined at a predetermined angle or degree. In response, any material located inside hollow internal chamber 28 must inherently flow out of the vessel via the funnel when appropriately inclined. This is the intended design and usage of the vessel and funnel arrangement of Raboin et al. (col. 1, lines 22-33).

14. Claims 1-3, 5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Minneman.

Minneman discloses a funnel comprising :

- a) a container including bottom and side portions; 10, 11
- b) a funnel member including funnel and spout portion; 15, 16
- c) a frusto-conical shape; 15, 16 (see figs. 4, 5, 7)
- d) a handle portion; and (see figs. 1 and 2)
- e) a plastic material funnel. see fig. 7 and material assoc.
with cross-section in fig. 7

15. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Minneman in view of Discho or Reynolds.

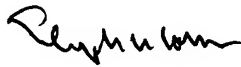
Minneman apply as previously recited. However, undisclosed is a funnel container made of metal. Discho (page 1, lines 43-47) and Reynolds (page 1, lines 39-52) each teach a funnel container made of sheet metal. Applicant is substituting one material type of funnel container for another in an analogous art setting. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Discho or Reynolds to the Minneman container funnel and have a container funnel made of a different material type.

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16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877 and whose e-mail address is (Stephen.Johnson@uspto.gov). The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.



STEPHEN M. JOHNSON
PRIMARY EXAMINER

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ
January 10, 2006